

Law Clerk's Copy

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

28
CBB

JAMES LEE WAGNER

PLAINTIFF

V.

WILLIAM F. WARD,

ET AL.,

DEFENDANTS

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CIVIL ACTION NO. 3:CV-00-1290
(JUDGE YVETTE KANE)

FILED
HARRISBURG

NOV 15 2001

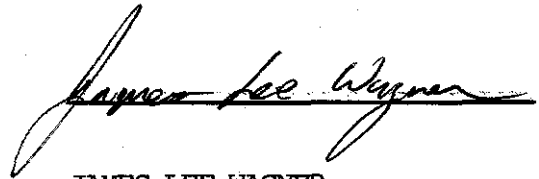
MARY E. D'ANDREA, CLERK
Per  DEPUTY CLERK

MOTION FOR THE APPOINTMENT OF COUNSEL

PLAINTIFF, JAMES LEE WAGNER, PURSUANT TO § 1915, REQUESTS THIS COURT
TO APPOINT COUNSEL TO REPRESENT HIM IN THIS CASE FOR THE FOLLOWING REASONS:

1. THE PLAINTIFF IS UNABLE TO AFFORD COUNSEL.
2. THE ISSUES INVOLVED IN THE CASE ARE COMPLEX.
3. THE PLAINTIFF HAS LIMITED ACCESS TO THE LAW LIBRARY.
4. THE PLAINTIFF HAS A LIMITED KNOWLEDGE OF THE LAW.

6 Nov, 2001



JAMES LEE WAGNER

SCI-ROCKVIEW BK-5396

BOX A

BELLEFONTE, PA 16823-0820

PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES LEE WAGNER

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Per *[Signature]*
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BRIEF IN SUPPORT OF MOTION FOR APPOINTMENT OF COUNSEL

THE PLAINTIFF, IN THE ABOVE MENTION CASE HEREBY REQUEST THIS HONORABLE COURT TO APPOINT COUNSEL BASED ON THE FOLLOWING INFORMATION TO SUPPORT HIS MOTION:

1. THE PLAINTIFF HAS FILED A 1983 COMPLAIN AGAINST THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE. PLAINTIFF HAS BEEN DENIED PAROLE CONSISTENTLY AND FEELS THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE HAS VIOLATED HIS RIGHTS TO DUE PROCESS AND EQUAL PROTECTION. PLAINTIFF FEELS THE BOARD PROCESS EMPLOYED IN THE DECISION MAKING PROCESS, AND THE DEVIATION FROM STATUTE AND LAW DEFINED IN THE PENNSYLVANIA PAROLE ACT HAVE VIOLATED HIS RIGHTS. PLAINTIFF HAS BEEN RECOMMENDED FOR PAROLE BY SCI-ROCKVIEW EACH AND EVERY TIME HE HAS APPLIED FOR PAROLE AND STILL GETS REFUSE PAROLE BY DEFENDANT'S.

PLAINTIFF ALSO FEELS DEFENDANT'S HAVE VIOLATED HIS PLEA AGREEMENT HE WAS SENTENCED ON. SEE ORIGINAL BRIEF FILED WITH THIS COURT ON JULY 2000.

2. PLAINTIFF NEEDS A LAWYER DUE TO THE COMPLEX NATURE OF THIS CASE BECAUSE IT CONTAINS SEVERAL DIFFERENT LEGAL CLAIMS, WITH EACH CLAIM INVOLVING THE DEFENDANT'S LISTED IN ORIGINAL BRIEF.

3. THE PLAINTIFF HAS DEMANDED A TRIAL BY JURY.

4. THE CASE WILL REQUIRE DISCOVERY OF DOCUMENTS AND DEPOSITIONS OF A NUMBER OF WITNESSES THAT ARE STATE EMPLOYED BY THE PENNSYLVANIA DEPART OF CORRECTIONS AND THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

5. THE TESTIMONY WILL BE IN SHARP CONFLICT, SINCE THE PLAINTIFF ALLEGES THAT DEFENDANT'S HAVE DENIED HIM RELEASE ON PAROLE.

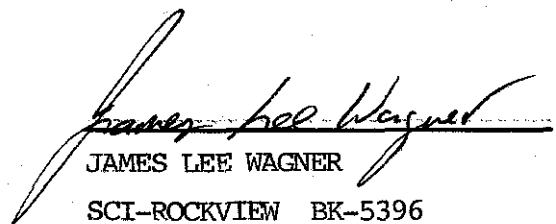
6. THE PLAINTIFF HAS ONLY A HIGH SCHOOL EDUCATION AND HAS NO LEGAL EDUCATION.

7. THE PLAINTIFF IS INCARCERATED AND HAS LIMITED ACCESS TO THE LAW LIBRARY.

8. AS SET FORTH IN 28 U.S.C. SEC 1915 (D) AN 18 U.S.C. SEC. 3006A (G), AS INTERPRETED IN McCLAIN V. MANSON, 334 F. SUPP. 382 (D. CONN. 1972) LEGAL AUTHORITY FOR APPOINTMENT AND COMPENSATION OF COUNSEL, THESE FACTS, ALONG WITH THE LEGAL MERIT OF THE PLAINTIFF'S CLAIMS, SUPPORT THE APPOINTMENT FOR COUNSEL TO REPRESENT PLAINTIFF.

WHEREFORE, THE PLAINTIFF'S MOTION FOR THE APPOINTMENT OF COUNSEL SHOULD BE GRANTED.

6 Nov 2001



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